

GOVERNMENT OF ANDHRA PRADESH  
ABSTRACT

Establishment- Cooperation Department- Sri J.Umapathi Rao, Senior Inspector on O.D.,as Extension Officer, Panchayat Raj & Rural Development Department, - Restoration of promotion as Assistant Registrar in the panel as on 1.9.2006- Orders - Issued.

AGRICULTURE AND COOPERATION (COOP-II) DEPARTMENT

G.O.Rt. No. 602

Date.27.05.2009

Read the following:

1. Representation from the President of A.P.Non-Gazetted Officers' Association, Hyderabad, representation dt. 30-1-2008.
  2. From the Commissioner for Cooperation and Registrar of Cooperative Societies, AP, Hyderabad Lr.Rc.No.31417/ 2007-Zone-I, dated.1.3.2008
  3. From the Commissioner for Cooperation and Registrar of Cooperative Societies, AP, Hyderabad progs.Rc.No.38742 /2006-E-6, dated.24.8.2007.
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**ORDER:**

In the reference 1<sup>st</sup> read above, the President of A.P.N.G.O's Association has represented that Sri J.Umapathi Rao, Senior Inspector on O.D. as Extension Officer, Panchayat Raj & Rural Development Department got promoted as Assistant Registrar and posted as Assistant Registrar/APCO Auditor vide Proceedings of the Commissioner for Cooperation and Registrar of Cooperative Societies, AP, Hyderabad dt. 17-1-07 and Proceedings of District Cooperative officer, Srikakulam, dt. 27-1-07, that but the individual was forced to go on medical leave as he fell ill, thus, he failed to join the promotion post within the prescribed joining time. He has further stated that earlier on two occasions i.e., in the panel years 1-9-2004 and 1-9-2005 he could not join the promotion post as his services were under the disposal of Panchayat Raj & Rural Development Department. He has, therefore, requested the Government to reconsider his plea sympathetically and restore his promotion as Assistant Registrar in relaxation of relevant A.P.State and Sub-ordinate Services Rules, 1996.

2. In the reference 2<sup>nd</sup> and 3<sup>rd</sup> read above, the Commissioner for Cooperation and Registrar of Cooperative Societies, AP, Hyderabad has stated that the name of Sri J.Umapathi Rao, Senior Inspector was considered for promotion as Assistant Registrar in the panel as on 1-9-2004, but he failed to join duty within 15 days and submitted a representation on 25-12-2005 with a request to exempt him from joining in the promotion post for a period of one year i.e., up to 1-9-2006 as he will be absorbed as MPDO in Panchayat Raj Department. In Consideration of the request, his name was not included in the panel year on 1-9-2005 and his name was considered for promotion as Assistant Registrar in the panel year as on 1-9-2006 and he was promoted as Assistant Registrar, vide Progs.Ex.No.367842/2006 E-6, dt. 17-1-2007 and the District Cooperative Officer, Srikakulam in Proceedings dt. 27-1-2007 posted the individual as Assistant Registrar/Auditor (APCO), Srikakulam. The individual though received orders on 6-2-2007 failed to join the promotion post by proceeding on leave. However, he was relieved him self from the post of E.O(RD) on 8-3-2007 and submitted a representation to the Additional Registrar-I, O/o the Commissioner for Cooperation and Registrar of Cooperative Societies, AP, Hyderabad to consider him to join in the promotion post. The Additional Registrar-I, O/o the Commissioner for Cooperation and Registrar of Cooperative Societies, AP, Hyderabad, being the appointing authority has examined the representation of the individual, based on the available records, and observed that the individual was already given two opportunities during the panels as on 1.9.2004 and 1.9.2005, one more chance i.e., third time in the panel as on 1.9.2006, as he failed to join in the promotion post, and the opportunity provided under G.O.Ms.No.145, General Administration (Services .D)

(PTO)

Department dt. 15-6-2004 cannot be extended to him for third time. The Additional Registrar-I, in his Progs.dt.Rc.No.38742/2006,E-6, dt. 24-8-2007 has issued orders cancelling the promotion of Sri J.Umapathi Rao, as Assistant Registrar issued vide Progs.dt.17-1-2007 and also held that he shall not be eligible for promotion again as he lost his right for promotion permanently as per General Rule 28 of A.P.State and Sub-ordinate Services Rules, 1996.

3. Government have carefully examined the matter and observes that the denial of promotion in the case of Sri J.Umapathi Rao, Senior Inspector as per General Rule 28 of A.P.State and Subordinate Service Rules, 1996 is not correct since there is no relinquishment of promotion by the individual in writing. Government also observes that as per General Rule 11(b) of A.P.State and Sub-ordinate Services Rules, 1996 as amended in G.O.Ms.No.145, General Administration (Ser.D)Department dated 15/6/2004, an employee who does not join in the promotion post within the stipulated time or evades to join the post by proceeding on leave, shall lose his promotion right/offer for the current panel year, and the name of the candidate shall be placed before the next Departmental Promotion Committee for consideration in the next year panel subject to availability of vacancy, that in case of non-selection posts, the name of the candidate who does not join within the stipulated time in the promotion posts shall be considered for promotion again after a period of one year from the date of offer of appointment subject to availability of vacancy. But there is no specific mention as how many times such consideration shall be given. In this regard the Hon'ble High Court of A.P. while considering the amendment issued in G.O.Ms.No.145, General Administration (Ser.D) Department dt. 15-6-2004, the Division Bench in Director of Health v/s Dr.P.Veerbhadr Rao and other (2009(1)S.L.R.(W.P.No,.26698/2006, 659 and 5213/2007), dt. 9-7-2008 have inter-alia observed the following:-

" Denial of consideration for promotion permanently is against the constitutional provision i.e., Article 16(1) of the Constitution of India as is decided by a Division Bench of this Court in Writ petition No.26654 of 1955, dated:09.08.2006. The language imported in the G.O. and object sought to be achieved by way of amendment is crystal clear. The amendment was made taking into consideration various reasons for which some employees/officers may not join in the promotional post within the stipulated time or evades and, the rigid rule, that such persons are not entitled for consideration of their case for promotion even in the future panel years was sought to be relaxed/softened, to enable such persons to claim for consideration of their case for promotion, in the future panel years, subject to availability of vacancies. Further, we are in complete agreement with the submissions made by the learned counsel for the respondents that this is a beneficial legislation made to take out rigidity of the rule denying the permanent consideration of promotion of an employee/officer when he does not join in the promotion post with in stipulated time. So also such persons would be very few in any department who did not join within stipulated time or evades to join in the promotional post for various reasons, but that itself does not mean that the employee/officer could be denied promotion permanently.

4. Government after taking into consideration of the specific observation of the Hon'ble High Court that in respect of such persons who did not join within stipulated time or evades to join in the promotional post for various reasons, but that it self does not mean that the employee/officer could not be denied promotion permanently, it is therefore decided to consider the case of Sri J.Umpathi Rao, Senior Inspector in accordance with the above law laid down by the Hon'ble A.P.High Court, and to consider his case for promotion to the post of Assistant Registrar in the next panel year subject to availability of vacancies.

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5. Accordingly, Government hereby set aside the Proceedings Of Additional Registrar-I, O/o the Commissioner for Cooperation and Registrar of Cooperative Societies, AP, Hyderabad in Rc.No.38742/2006,E-6, dt. 24-8-2007, and also direct the Commissioner for Cooperation and Registrar of Cooperative Societies, AP, Hyderabad to consider the case of Sri J.Umapathi Rao, Senior Inspector, for promotion as Assistant Registrar, in the next panel year subject to availability of vacancies.

6. The Commissioner for Cooperation and Registrar of Cooperative Societies, AP, Hyderabad is requested to take necessary action.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

PANKAJ DWIVEDI,  
PRINCIPAL SECRETARY TO GOVERNMENT(FP,AM &COOP)

To

The Commissioner for Cooperation and Registrar of Cooperative Societies, AP, Hyderabad.  
Sri J.Umapathi Rao, Sr.Inspector (through the Commissioner for Cooperation and Registrar of Cooperative Societies, AP, Hyderabad).

The A.P.N.G.O's Association, NGO's Home, Gunfoundry, Hyderabad- 1.

The General Administration(Ser.D) Department.

The P.S. to Min(Cooperation)/P.S. to Prl.Secy (FP,AM&C),  
SF/SC.

//FORWARDED: BY ORDER//

SECTION OFFICER